



**Los Angeles County
Board of Supervisors**

Gloria Molina
First District

Mark Ridley-Thomas
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

John F. Schunhoff, Ph.D.
Interim Director

Robert G. Splawn, M.D.
Interim Chief Medical Officer

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213) 240-8101
Fax: (213) 481-0503

www.dhs.lacounty.gov


*To improve health
through leadership,
service and education.*



www.dhs.lacounty.gov

June 9, 2009

TO: Each Supervisor

FROM: John F. Schunhoff, Ph.D. 
Interim Director

SUBJECT: **DEPARTMENT OF MANAGED HEALTH CARE (DMHC)
ENFORCEMENT MATTER #09-194**

This report is to inform you that on April 10, 2009, the County of Los Angeles Department of Health Services, dba Community Health Plan ("CHP") received a notice of non-compliance from the DMHC, Enforcement Matter #09-194 related to the resolution of a member grievance.

Discussion

The DMHC sent a notice of enforcement to CHP entitled, "DMHC Complaint Number 436863, and Enforcement Matter Number 09-194", alleging that CHP failed to comply with Health and Safety Code section 1368 (a) (5), and California Code of Regulations, Title 28 section 1300.68 (d) (4), thereby subjecting CHP to an administrative penalty in the amount of \$2,500.00. The enforcement is related to a member grievance.

On October 21, 2008, the member filed a grievance to CHP requesting coverage for a dermatologist referral due to a fingernail fungus infection. The member stated that she received a few treatments that had not helped and expressed concern that the medications would hurt her liver if taken for longer period of time. Based on the review of the medical records, the member was dispensed multiple treatments for over a year. She routinely had liver function tests with results within normal range. According to her primary care provider ("PCP"), she was given the most effective treatment for the condition as per clinical guidelines. This case was reviewed by a CHP clinical consultant based on the appropriateness of treatment that was provided by the PCP and concluded that the member did not require a visit to the dermatologist.

On November 19, 2008, CHP sent a written resolution to the member that focused on the appropriateness of treatment rendered by the PCP. The resolution letter did not address the member's request for a referral to the dermatologist.

Subsequently, on December 17, 2008, the member appealed to the DMHC regarding CHP's denial for the referral to a dermatologist. The appeal was reviewed by CHP's Chief Medical Officer ("CMO") who approved the referral to the dermatologist. The dermatologist confirmed that the initial treatment provided by the PCP was appropriate and no change in treatment plan was recommended.

Although the treatment provided to the member was appropriate, the DMHC concluded that CHP “failed to comply with Health and Safety Code section 1368 (a) (5), and California Code of Regulations, Title 28 section 1300.68 (d) (4)”. The DMHC noted that CHP failed to provide the member a “clear and concise explanation of the reasons” for denying the referral to the dermatologist in its November 19, 2008 resolution letter. Additionally, the DMHC stated that the resolution letter “must clearly state the criteria, clinical guidelines or medical policies used in reaching the determination”. Since CHP’s resolution focused on the appropriateness of the treatment provided by the PCP, CHP acknowledges that it failed to explain why the referral to a dermatologist was not necessary. Therefore, CHP agreed to pay the \$2,500.00 penalty.

In reviewing the enforcement actions posted on the DMHC’s website as violations to Title 28, section 1300.68 (<http://wpso.dmhc.ca.gov/enfactions/actionSearch.aspx>), a total of 15 cases with penalty of \$2,500.00 each were paid by various health plans for action dates January 2009 and February 2009. Some health plans were repeatedly cited for the same violation including citations posted for prior years. CHP’s failure to comply with the cited regulation and the \$2,500.00 penalty is its first violation and fine during the past 10 years. It should also be noted that the DMHC has taken a much more aggressive position in the past few years with regard to fines and enforcement.

As part of CHP’s on-going corrective action plan, the CMO will review clinical related grievances and will ensure compliance with the DMHC regulations. Further, continuous staff training is in place including consultation with the Compliance Officer in matters related to member grievance resolutions when deemed necessary. CHP is also in the process of creating template grievance resolution letters and a check list containing all elements required in resolving grievances, and added tools to ensure full compliance.

JFS:TDL:np

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors